

HONORABLE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VALVE CORPORATION,

Petitioner,

v.

THOMAS ABBRUZZESE, et al.,

Defendants.

Case No. 2:24-cv-1717-JNW

DEFENDANTS' MOTION FOR LEAVE  
TO FILE AN OVER-LENGTH  
RESPONSE BRIEF

NOTED ON MOTION CALENDAR:  
September 8, 2025

Defendants, through undersigned counsel, hereby move to file an over-length brief pursuant to Local Rules W.D. Wash. LCR 7(f).

**I. MOTION**

Defendants respectfully move for leave to file a single, consolidated opposition to Valve's motion for preliminary injunction not to exceed 12,000 words, and for Plaintiff's reply to be up to 6,000 words. Plaintiff's counsel has stated that it does not oppose this request.

1 Good cause exists for the single over-length brief. Valve improperly joined 572  
2 individual defendants by suing them each on an individual basis with no allegation of joint,  
3 several, or alternative liability. *See* Fed. R. Civ. P. 20(a)(2). Under the rules, each defendant  
4 may file an opposition of up to 8,400 words. Preparing hundreds of separate briefs would  
5 burden the Court and the docket. Consolidating into one opposition promotes judicial economy,  
6 avoids duplicative filings, and provides the Court a coherent, organized presentation of all  
7 currently known arguments. Defendants' counsel believes those arguments can be addressed  
8 within a 12,000-word cap.  
9

10 The requested length is also warranted by the breadth and novelty of the issues.  
11 Valve's motion is shot through with questions of first impression and complex threshold  
12 doctrines, including (among others): Article III and Declaratory Judgment Act limits; waiver  
13 and forfeiture under *Morgan v. Sundance, Inc.*, 596 U.S. 411 (2022); the scope and limits of  
14 any judge-made authority to enjoin arbitrations versus the statutory scheme of the FAA; the  
15 applicability (and inapplicability) of *Coinbase, Inc. v. Suski*, 602 U.S. 143 (2024), on  
16 reconsideration of previous orders and/or mid-stream interlocutory appeals; the heightened  
17 standard for mandatory injunctions that alter, rather than preserve, the status quo; and the  
18 adequacy of legal remedies. The brief must also address multiple arbitrators' reasoned rulings  
19 denying Valve's parallel requests to halt proceedings or divest arbitral jurisdiction.  
20  
21

22 State-law questions further support the requested length. Valve's theory turns on  
23 Washington contract law and modern consumer-contract principles concerning unilateral  
24 updates to boilerplate terms. Defendants will show that Valve never manifested any intent—  
25 much less provided meaningful, penalty-free opt-out—to require consumers to withdraw  
26 pending arbitrations, and that the first time this unexpressed and subjective intent was

1 conveyed to each Defendant was in this very litigation. The consolidated opposition will also  
2 explain why the Restatement of Consumer Contracts counsels against enforcing unilateral  
3 modifications that retroactively extinguish in-flight claims. The consolidated opposition will  
4 also explain why the Restatement of Consumer Contracts counsels against enforcing unilateral  
5 modifications that retroactively extinguish in-flight claims, and why the Restatement requires  
6 that any unilateral update provide a reasonable opportunity to opt out without penalty or  
7 personal burden to the user.  
8

9       The requested 12,000-word cap is conservative relative to the scope of the case (572  
10 defendants × 8,400 words each) and will materially streamline proceedings. Permitting a single,  
11 longer brief now will save the Court substantial time versus adjudicating duplicative issues  
12 across scores of filings. Allowing Plaintiff a 6,000-word reply ensures parity and gives the  
13 Court balanced presentations.  
14

15       Timewise, this motion complies with the local rules: it is filed no later than three days  
16 before the opposition is due, which is this Thursday. Local Rules W.D. Wash. LCR 7(f).  
17 Although defense counsel has requested an extension of the deadline, Valve has conditioned  
18 agreement on substantive concessions regarding the merits before allowing Defendants'  
19 counsel any extension to respond to the motion for preliminary relief. This is so even when Mr.  
20 Bucher is in trial for the next two weeks. Putting professional courtesy aside, this conduct  
21 evidences an attempt to secure victory by making the process unduly burdensome or by forcing  
22  
23  
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25  
26

defaults, rather than allowing all improperly joined parties a fair opportunity to address the merits through their chosen counsel.<sup>1</sup>

## II. CONCLUSION

For these reasons, Defendants respectfully request leave to file a single consolidated opposition of up to 12,000 words and for Plaintiff to file a reply of up to 6,000 words.

DATED this 8th day of September, 2025.

BAILEY DUQUETTE P.C.

By: /s/ William R. Burnside  
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*Attorneys for Defendants*

*I certify that this motion contains less than 700 words pursuant to Local Rules W.D. Wash. LCR 7(f)(2).*

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<sup>1</sup> Defense counsel is diligently exploring every opportunity to secure a reasonable, non-prejudicial extension without requiring court intervention through a motion to extend time or a telephonic request.

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I caused a true and correct copy of the foregoing Defendants' Motion for Leave to File an Over-length Response Brief served upon counsel of record herein, as follows:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: September 8, 2025 at Seattle, Washington.

s/ William R. Burnside  
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